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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

Defendant Tony Klein, by and through his attorneys Matthew McHenry and Amanda Alvarez Thibeault, respectfully moves to continue the trial that is currently set in this case for July 10, 2023. The government objects to this motion. A continuance of the trial is required in order to complete defense investigation and trial preparation and to defend Mr. Klein under constitutional standards. Because the details underlying the defense's

need for a continuance involve confidential attorney-client privileged information and confidential defense trial strategy, Mr. Klein will move for an order permitting him to file a supporting declaration *ex parte* and under seal. For the reasons that will be provided in that filing, the accompanying declaration here, and the reasons set forth below, the defense cannot reasonably be prepared by the current trial date.

I. BACKGROUND

Mr. Klein was arraigned on the 25-count indictment on March 14, 2022. The government has been investigating this case since at least 2019. In contrast to the three-plus years of preparation time the government has had, the defense has been working on this case for less than 12 months. Through today, the government has provided nearly 96,000 pages of unorganized discovery in four separate volumes. All discovery received goes to a third-party company for processing, redaction, and organization. The discovery is not in a usable format for the defense team until it has been processed by the third-party company. Discovery is ongoing—on December 30, 2022, the government provided an additional 1335 pages of unorganized discovery (Volume 3). Today, March 7, 2023, the government provided an additional 967 pages of unorganized discovery (Volume 4).

II. NEW FACTORS

Despite the volume of discovery and complexity of the case, the defense believed it could be prepared for the July 2023 trial date when set by the Court in May of 2022. ECF 20. However, recent developments now make the current trial date unfeasible. First, on February 28, 2023, the Oregon Department of Corrections granted the defense team access to the Coffee Creek Correctional Facility, where the crimes are alleged to have occurred. The information obtained during this tour has led to a significant number of critical defense investigation tasks that were not feasible nor executable until the tour was conducted. Second, the defense is seeking numerous records and documents from various agencies that are critical to the defense theory. Despite diligent and timely efforts on the part of the defense, the timelines for receiving these records has extended. Some litigation will likely be required to resolve this particular issue. Given that the records sought will lead to additional investigation leads and follow-up tasks, it is not reasonable to believe all necessary investigation and witness identification can be completed by the current trial date.

The details underlying the above reasons for a continuance, as well as other reasons necessitating a continuance, implicate Mr. Klein's confidential attorney-client relationship and communications, and likewise implicate

confidential defense work product and trial strategy that cannot be disclosed in a public filing. As such, contemporaneously with this motion, Mr. Klein will move for an order permitting him to file a supporting declaration *ex parte* and under seal. If granted, Mr. Klein will provide the court with further details in support of the motion to continue in an *ex parte*, sealed declaration.

III. REQUESTED SCHEDULE

The defense has communicated with the government regarding this motion. The government opposes this motion. The defense proposes that a new trial date be set by the parties at a status conference to be scheduled.

Respectfully Submitted this 7th day of March, 2023:

/s/ Matthew G. McHenry
Matthew G. McHenry
Counsel for Tony Klein

/s/ Amanda Alvarez Thibeault
Amanda Alvarez Thibeault
Counsel for Tony Klein